UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,018	09/29/2005	Okuyama Ryoichi	4174-052881	1971
28289 THE WEBB LA	7590 08/21/200 AW FIRM, P.C.	EXAMINER		
700 KOPPERS	BUILDING	CREPEAU, JONATHAN		
436 SEVENTH PITTSBURGH	-		ART UNIT	PAPER NUMBER
			1795	
			MAIL DATE	DELIVERY MODE
			08/21/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)				
Office Action Summers	10/551,018	RYOICHI ET AL.				
Office Action Summary	Examiner	Art Unit				
	Jonathan Crepeau	1795				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
 A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 						
Status						
1) Responsive to communication(s) filed on 20 Se	entember 2005					
	Responsive to communication(s) filed on <u>29 September 2005</u> . This action is FINAL . 2b) This action is non-final.					
· <u> </u>	, 					
•	,—					
closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims						
4)⊠ Claim(s) <u>19-28</u> is/are pending in the application	4) Claim(s) 19-28 is/are pending in the application					
· · · · · · · · · · · · · · · · · · ·	4a) Of the above claim(s) is/are withdrawn from consideration.					
5) Claim(s) is/are allowed.						
6) Claim(s) is/are allowed.						
7) Claim(s) is/are rejected.						
· · · · · · · · · · · · · · · · · · ·						
8) Claim(s) <u>19-28</u> are subject to restriction and/or election requirement.						
Application Papers						
9)☐ The specification is objected to by the Examiner.						
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
11) The oath of declaration is objected to by the Examiner. Note the attached Office Action of forth P10-152.						
Priority under 35 U.S.C. § 119						
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 						
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:	te				

Application/Control Number: 10/551,018 Page 2

Art Unit: 1795

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 19 and 20, drawn to a first method of using.

Group II, claim(s) 21-24, drawn to a second method of using and a first product.

Group III, claim(s) 25, drawn to a second product.

Group IV, claim(s) 26-28, drawn to a first method of making.

2. The inventions listed as Groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The common subject matter among Group I, Group II, and Groups III-IV is a direct methanol fuel cell, which does not make a contribution over the prior art. Regarding Groups I and II, claim 19 of Group I recites "a characteristic of elution of the fuel electrode material into the fuel is measured," and claim 21 of Group II recites "elution...is detected." Since measurement of various system parameters such as voltage may correspond to a "characteristic" of elution, which is known in the art, it is seen that Group I does not positively require a detecting step, and thus does not share a common special technical feature with Group II. With regard to Groups III and IV, claim 25 of Group III recites that the

Art Unit: 1795

electrolyte is mixed with the electrode, which is also known in the prior art. Since the specific method steps in product claim 25 of Group III are accorded little patentable weight, Group III does not share a common special technical feature with the method of Group IV.

3. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

- 4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
- 5. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

Application/Control Number: 10/551,018

Art Unit: 1795

Page 4

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained.

Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. Failure to do so may result in a loss of the right to rejoinder. Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Crepeau whose telephone number is (571) 272-1299. The examiner can normally be reached on Monday-Friday, 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number: 10/551,018 Page 5

Art Unit: 1795

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jonathan Crepeau/ Primary Examiner, Art Unit 1795